

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

CALVIN MALONE, GEORGE O.
MITCHELL, JOHATHAN PARSONS,
RICHARD JACKSON, and JAMES
TURNER,

CASE NO. 19-5574 RJB-JRC

ORDER ON REPORT AND RECOMMENDATION

Plaintiffs,

V.

ROBERT W. FERGUSON, Attorney
General of Washington, et. al.,

Defendants.

THIS MATTER comes before the Court on the Report and Recommendation of U.S. Magistrate Judge J. Richard Creatura. Dkt. 13. The Court has considered the Report and Recommendation, objections, and the remaining record.

The Plaintiffs, *pro se* civil detainees at the Special Commitment Center (“SCC”), filed this putative class action on June 24, 2019. Dkt. 1. They allege that the Defendants have violated Washington’s Minimum Wage Act, RCW 49.46.010, *et. seq.*, the federal Fair Labor Standards Act, 29 U.C.S. § 206, *et. seq.*, were unjustly enriched, and violated the Plaintiffs’

1 constitutional rights when the Defendants failed to pay the Plaintiffs minimum wage for work
2 performed and for Defendants' failure to provide "appropriate working gear." Dkt. 11. After
3 paying the filing fee, the Plaintiffs were ordered to indicate to the Court whether they sought the
4 appointment of counsel. Dkt. 10. The Plaintiffs did not respond. The Plaintiffs filed a motion
5 for class certification instead. Dkt. 12.

6 On October 30, 2019, the Report and Recommendation was filed, recommending that the
7 motion for class certification (Dkt. 12) be denied without prejudice. Dkt. 13. The Plaintiffs filed
8 objections, asserting that they now wish to apply for class counsel. Dkt. 14. They do not
9 directly address whether the Report and Recommendation (Dkt. 13) should be adopted.

10 The Report and Recommendation (Dkt. 13) should be adopted and the Plaintiffs' motion
11 for class certification (Dkt. 12) should be denied without prejudice. The case should be re-
12 referred to Magistrate Judge Creatura for consideration of the Plaintiff's motion for appointment
13 of class counsel (Dkt. 14) and for further proceedings consistent with this order.

14 **IT IS ORDERED:**

15 • The Report and Recommendation (Dkt. 13) **IS ADOPTED**;

16 • The Plaintiffs' motion for class certification (Dkt. 12) **IS DENIED WITHOUT**
17 **PREJUDICE**; and

18 • The case **IS RE-REFERRED** to Magistrate Judge Creatura for consideration of
19 the Plaintiffs' motion for appointment of class counsel (Dkt. 14) and for further
20 proceedings consistent with this order.

21 The Clerk is directed to send uncertified copies of this Order to Magistrate Judge
22 Creatura, all counsel of record, and to any party appearing *pro se* at said party's last known
23 address.

1 Dated this 18th day of November, 2019.
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6 ROBERT J. BRYAN
7 United States District Judge
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